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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/631,016

07/31/2003

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8312.156

9527

7590 05/03/2007
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EXAMINER

SUTHERS, DOUGLAS JOHN

ART UNIT

PAPER NUMBER

2615

MAIL DATE

DELIVERY MODE

05/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/631,016

Applicant(s)

HUSSAINI ET AL.

Examiner

Douglas Suthers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2615.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yu (US 5190258) in view of Meisner et al. (US 5675426).

4. Regarding claim 1, Yu discloses an audio accessory system for use with a portable electronic device (such as a laptop computer, DVD player, or video game), said system comprising: two speakers (figure 1, items 15 and 15A), said speakers being individually rotatably mounted to a single common backing panel (support structure of 13), and, a base unit (electronics of 13), said base unit having at least one plug-in device (column 2 lines 55-56, input and output terminals) to communicate with said portable electronic device.

Yu does not expressly disclose a base unit being rotatably mounted to a backing panel.

Meisner discloses speakers being individually rotatably mounted to a single common backing panel (10), and, a base unit (11) being rotatably mounted to said backing panel (column 5 line 19).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the speaker placement of Meisner with the system of Yu. The motivation for doing so would have been to automatically turn the speakers toward the user when the screen is turned. Therefore, it would have been obvious to combine Meisner with Yu to obtain the invention as specified in claim 1.

5. Regarding claim 2, Yu discloses wherein said base unit includes at least two plug-in devices (column 2 lines 55-56, input and output terminals).

6. Regarding claim 3, Yu discloses wherein said base unit has at least one pass-through port (audio input to speaker output) to facilitate communication between the portable electronic device and an auxiliary accessory (speaker) while said audio accessory is connected to said portable electronic device.

7. Regarding claim 4, Yu discloses wherein said base unit has at least two pass-through ports (left and right).

8. Regarding claim 5, Yu discloses wherein said speakers have an extreme vertical position (shown in figure 8) that is perpendicular to said backing panel, and an extreme

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lateral position (90 degrees from figure 8) that is axially aligned with said backing panel, said speakers being movable to any position between said extreme vertical and extreme lateral positions (figure 8).

9. Regarding claim 6, Yu discloses wherein said system has two locking positions (full forward and full backward, figures 3 and 4).

10. Regarding claim 7, Yu discloses wherein said locking positions include an installed position (full forward, bottom of figure 4B) and a stored position (full backward, top of figure 3), said installed position comprising the position in which said system is installed in said portable electronic device, and said stored position wherein said system in said stored position has a narrower profile than said system in said installed position.

11. Regarding claim 8, although Yu does not expressly disclose a range of motion of greater than one hundred eighty degrees, it would have been obvious to have frame 22 have recesses 23 that allow for greater range of motion. The motivation to do so would have been to allow for a greater number of possibilities in speaker and listener positions. Therefore at the time of invention, it would have been obvious to one of ordinary skill in the art to further comprise wherein said system is changed from said installed position to said stored position by rotating in excess of one hundred eighty degrees.

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12. Regarding claim 9, Meisner discloses wherein said backing panel is parallel with said base unit when said system is in said stored position (horizontal planes are parallel).

13. Regarding claim 10, Yu discloses wherein said speakers are rotatable in either the stored or installed positions (figure 8).

14. Regarding claim 11, although not disclosed, the examiner takes official notice that it is general knowledge that people may place items on top of video monitors for unit placement. The motivation would have been to save space or to save time in unit placement. Given this it would have been obvious to further comprise wherein, in said stored position, said backing panel and said speakers are vertically aligned with said portable electronic device (vertical axes aligned).

15. Regarding claim 12, although not disclosed, the examiner takes official notice that it is general knowledge that people may place items on top of video monitors for unit placement. The motivation would have been to save space or to save time in unit placement. Given this it would have been obvious to further comprise wherein said speakers and said backing panel are underneath said portable electronic device in said stored position.

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16. Regarding claim 13, Yu discloses wherein said speakers rotate in a plane perpendicular (vertical) to a plane of rotation of said base unit (horizontal).

17. Regarding claim 14, although not expressly disclosed, the need to protect and stabilize fragile electronic devices was well known in the art. The motivation to do so would have been to protect the units from damage and insure the unit does not get disconnected. Therefore at the time of invention, it would have been obvious to one of ordinary skill in the art to further comprise locking tabs on said base unit, said tabs engaging said portable electronic device to ensure that said system remains connected to said portable electronic device.

18. Regarding claim 15, Yu discloses a speaker system for a video amusement device (such as a laptop computer, DVD player, or video game), said system comprising: two speakers (figure 1, items 15 and 15A), said speakers being individually rotatably mounted to a single common backing panel (support structure of 13), and, a base unit (electronics of 13), said base unit having two electrical plug-in devices (column 2 lines 55-56, input and output terminals) for communicating with said video amusement device, wherein said base unit has at least two pass-through ports (left and right) wherein similar or identical electronic devices or auxiliary accessories can be attached, said system having an installed locking position (full forward), and a stored locking position (full backward).

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Yu does not expressly disclose a base unit being rotatably mounted to a backing panel.

Meisner discloses speakers being individually rotatably mounted to a single common backing panel (10), and, a base unit (11) being rotatably mounted to said backing panel (column 5 line 19).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the speaker placement of Meisner with the system of Yu. The motivation for doing so would have been to automatically turn the speakers toward the user when the screen is turned. Therefore, it would have been obvious to combine Meisner with Yu to obtain the invention as specified in claim 15.

19. Regarding claim 16, Yu discloses wherein said speakers have an extreme vertical position (shown in figure 8) that is perpendicular to said backing panel, and an extreme lateral position (90 degrees from figure 8) that is axially aligned with said backing panel, said speakers being movable to any position between said extreme vertical and extreme lateral positions (figure 8).

20. Regarding claim 17, Yu discloses wherein said system in said stored position has a narrower profile than said system in said installed position (system would be more narrow side to side).

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21. Regarding claim 18, although not disclosed, the examiner takes official notice that it is general knowledge that people may place items on top of video monitors for unit placement. The motivation would have been to save space or to save time in unit placement. Given this it would have been obvious to further comprise wherein said portable electronic device is vertically aligned with said speakers and said backing panel when said system is in said stored position (vertical axes aligned).

22. Regarding claim 19, although not disclosed, the examiner takes official notice that it is general knowledge that people may place items on top of video monitors for unit placement. The motivation would have been to save space or to save time in unit placement. Given this it would have been obvious to further comprise wherein said speakers and said backing panel are underneath said portable electronic device in said stored position.

23. Regarding claim 20, although Yu does not expressly disclose a range of motion of greater than one hundred eighty degrees, it would have been obvious to have frame 22 have recesses 23 that allow for greater range of motion. The motivation to do so would have been to allow for a greater number of possibilities in speaker and listener positions. Therefore at the time of invention, it would have been obvious to one of ordinary skill in the art to further comprise wherein said system is changed from said installed position to said stored position by rotating in excess of one hundred eighty degrees.

24. Regarding claim 21, Meisner discloses wherein said backing panel is parallel with said base unit when said system is in said stored position (horizontal planes are parallel).

25. Regarding claim 22, Yu discloses wherein said speakers are rotatable in either the stored or installed positions (figure 8).

26. Regarding claim 23, Yu discloses wherein said speakers rotate in a plane (vertical) perpendicular to a plane of rotation of said base unit (horizontal).

27. Regarding claim 24, although not expressly disclosed, the need to protect and stabilize fragile electronic devices was well known in the art. The motivation to do so would have been to protect the units from damage and insure the unit does not get disconnected. Therefore at the time of invention, it would have been obvious to one of ordinary skill in the art to further comprise locking tabs on said base unit, said tabs engage said portable electronic device to ensure that said system remains connected to said portable electronic device.

Response to Arguments

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28. Applicant's arguments filed February 1st, 2007 have been fully considered but they are not persuasive.

29. In response to applicant's argument that the system of Yu is not intended for use with a portable electronic device, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

30. In response to applicant's arguments, the recitation "an audio accessory system" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

31. Regarding applicant's arguments that the system does not comprise "an audio accessory system", the broadest possible interpretation would hold any audio system as "accessory" if it were not essential.

32. Regarding applicant's arguments that the speakers are not mounted to a single common backing panel, the speakers are mounted indirectly (making them rotatable) to the backing panel, as are the speakers of the disclosed invention.

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33. Regarding applicant's argument that the monitor is not a backing panel, the examiner maintains that it is and is used as a support structure as in the claimed invention.

34. In response to applicant's argument that Meisner would lack plug in devices, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

35. To clarify the examiners stance, the phrase "automatically turn the speakers toward the user when the screen is turned" was intended to mean that when the monitor is turned in the horizontal plane, the speakers turn in the horizontal plane by the same angle. For example if the speakers are set to point at a user directly in front of the screen, and the user moves ten degrees clockwise, then turns the monitor ten degrees clockwise to face them, the speakers will also turn ten degrees to focus on the user.

36. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., locks, applicant's idea of "pass-through ports") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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37. Regarding applicant's arguments with regard to "pass-through ports" the examiner is unclear why the applicant makes such assumptions on the use of the identified ports.

38. Regarding applicant's arguments with regard to positions, the examiner would like to point out that the claim pertains to positions only not to any locking mechanism.

39. Regarding applicant's arguments with regard to claims 5 and 16, the rejection is meant to state a rotation as found in figure 8.

40. Regarding applicant's arguments with regard to claims 8 and 20, the examiner would like to point out that although ideally users are usually sitting directly in front of a monitor, this is not always the case. There are also cases where there are multiple users.

41. Regarding applicant's arguments with regard to claims 12 and 23, the examiner intended the plain of rotation to come from the combinations found in claims 1 and 15.

42. Regarding applicant's arguments with regard to claims 14 and 24, the examiner disagrees. Even disregarding other portable devices, personal computers often have cables and peripherals that include locking tabs such as telephone cords, or Ethernet cables.

43. The examiner would like to note that the meaning of portable is very broad. It is the examiner's stance that modern day desktop computers are even portable.

Conclusion

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44. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

45. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas Suthers whose telephone number is (571)272-0563. The examiner can normally be reached on 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (571)272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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